

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
(406) 586-4364
1-800-624-3270
watercourt@mt.gov

IN THE WATER COURT OF THE STATE OF MONTANA
UPPER MISSOURI DIVISION
GALLATIN RIVER BASIN (41H)
PRELIMINARY DECREE

CLAIMANTS: Michael L. Eide; Fairway Estates; Jean Neil;
Wayne Neil Jr; Wayne Neil Sr; Steven H
Williamson; Jennie J. Holton Revocable Trust;
Scott Holton Revocable Trust; John E. Zowada;
Trisha M. Zowada

CASE 41H-0597-R-2022

41H 113303-00

41H 113304-00

NOTICE OF INTENT TO APPEAR: East Gallatin LLC; Old
River Farm Homeowners Assn Inc; Riverside
Country Club

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days be added to the 10-

day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

FINDINGS OF FACT

1. The claims in this Case appeared in the Basin 41H Decree with several ownership issue remarks and notice of intent to appear from East Gallatin LLC, Old River Farm Homeowners Assn Inc, and Riverside Country Club.

2. On August 26, 2022, East Gallatin and Old River Farm filed evidence suggesting that the historical use of claim 41H 113303-00 is questionable. The NOIA parties question historical use of the claim because the place of use is highly subdivided and there does not appear to be a current or historical means of conveyance.

3. Riverside Country Club filed a Status Report on August 31, 2022 agreeing with the other NOIA parties.

4. No claimant or potential owner filed a response to the allegation of abandonment. Several of the potential owners listed had outdated addresses and the Court was unable to serve them.

5. Claimants were given multiple opportunities to file a response in this case and none were ever filed.

6. The Court's orders stated, "Failure to comply with this filing deadline may result in sanctions, up to and including entry of default and termination of a water right claim or dismissal of objections."

7. Nothing was submitted by Claimants as of the date of this Report.

CONCLUSIONS OF LAW

1. Section 85-2-248(2), MCA requires the Water Court to resolve all issue remarks that are not resolved through the objection process. When resolving issue remarks, the

Water Court must weigh the information resulting in the issue remark and the issue remark against the claimed water right. Section 85-2-247(2), MCA.

2. A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content. Section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that an element of the prima facie claim is incorrect. This is the burden of proof for every assertion that a claim is incorrect. Rule 19, W.R.Adj.R.

3. If a claimant, objector, or intervenor fails to appear at a scheduled conference or hearing, or fails to comply with an order issued by the water court, the water court, upon motion, or its own initiative, may issue such orders of sanction with regard thereto as are just. Rule 22, W.R.Adj.R.

4. Pursuant to Section 85-2-248(9), MCA, and Rule 22, W.R.Adj.R., when a claimant fails to comply with an Order issued by the Water Court, including an Order issued by a Water Master appointed by the Court, the Court, upon motion, or its own initiative, can among other actions: 1) amend the elements of the claim to conform with the information in the claim file or information obtained by the Court, or 2) terminate the claim.

5. Claimants failed to provide any evidence to contradict NOIAs' assertions that the claims have been abandoned. The assertion combined with the lack of participation from Claimants are enough to justify a dismissal of the claims.

RECOMMENDATIONS

The changes recommended above should be adopted. Post Decree Abstracts of Water Right Claims are served with the Report to confirm that the claims 41H 113303-00 and 41H 113304-00 have been dismissed.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service via USPS Mail:

Michael L. Eide
92 Baldy View Ln
Townsend, MT 59644-9611

Steven H. Williamson
PO Box 1865
Bozeman, MT 59715

Fairway Estates
~~PO Box 1941~~
~~Bozeman, MT 59771-1941~~
Returned Mail Received 6/17/2022

Jennie J. Holton Revocable Trust
Jennie J. Holton, Trustee
1200 Stonegate Dr
Bozeman, MT 59715

Wayne Neil Jr
Jean Neil
30 Churn Creek Dr
Bozeman, MT 59715-7705

Scott Holton Revocable Trust
Scott Holton, Trustee
1200 Stonegate Dr
Bozeman, MT 59715

Wayne Neil Sr
6039 Gooch Hill Rd
Bozeman, MT 59715

John E. Zowada
Trisha M. Zowada
3138 Madrona Ln
Bozeman, MT 59715-0705

Potential Owners:

Kenneth P. Walters
Beckie L. Walters
92A 13th St
Belgrade, MT 59714

Lakeside, MT 59922-9743
~~440 Stonegate Dr~~
~~Bozeman, MT 59715-7772~~

James Jutzy
Natalie Jutzy
340 Stonegate Dr
Bozeman, MT 59715

Sean Gallinger
Lindsay Gallinger
480 Stonegate Dr
Bozeman, MT 59715-7772

Lori A. Horsley
382 Stonegate Drive
Bozeman, MT 59715

Guy N. Braham
Barbara L. Braham
500 Stonegate Dr
Bozeman, MT 59715-7776

Douglas A. Neil
104 Watercolor Court
Bozeman, MT 59715

James R. Love
Billie B. Love
532 Stonegate Dr
Bozeman MT 59715-7776

Darren Dobie
Tracy Dobie
111 Spar Ln

Jamie J. Bottcher
Justine L. Bottcher
564 Stone Gate Dr
~~464 Stonegate Dr~~
Bozeman, MT 59715-7776

Robert John Phares
PO Box 60
Clyde Park, MT 59018-0060

Robert K. Levi
Sheryl Levi
634 Stonegate Dr
Bozeman, MT 59715-7764

Raymond Hueter
Linzie Hueter
127 Churn Creek Dr
Bozeman, MT 59715-7872

Joseph P. Sheehan
Elise G. Sheehan
603 Stonegate Dr
Bozeman, MT 59715-7764

Charles L. Beck
Donna R. Beck
567 Stonegate Dr
Bozeman, MT 59715

Merlin N. and Linda M. Nelson Living Trust
535 Stonegate Dr
Bozeman, MT 59715-7771

Pack Family Trust
473 Stonegate Dr
Bozeman, MT 59715-7772

Caroline S. Roy
6570 Schafer Rd
Bozeman, MT 59715-7739

Mikesell Revocable Trust
14621 Beach Ave
Irvine, CA 92606-2159

Mark S. Johnson
Kay J. Johnson
PO Box 758
Bozeman, MT 59771-0758

Steve E. Williamson
1855 Pheasant Brook Dr
Laurel, MT 59044-9304

Duane Irey
Sally Irey
1134 Stonegate Dr
Bozeman, MT 59715-7775

Abby W. Jackson
1170 Stonegate Dr
Bozeman, MT 59715-7775

Scott A. Holton
1200 Stonegate Dr
Bozeman, MT 59715-2102

Laura C. Swift
1611 S. Willson Ave
Bozeman, MT 59715-5549

~~Bruce E. May~~
~~Diane F. May~~
~~45 Wild Trout Ln~~
~~Bozeman, MT 59718~~

Jodi L. Mailey
~~1300 Stonegate Dr~~
~~Bozeman, MT 59715-2106~~
Returned Mail Received 10/03/2022

Gregory W. Neil
210 Ridge Trl
Bozeman, MT 59715-9253

Tim Warner Jr. and Heather Margolis Estate
Trust
796 Stonegate Dr
Bozeman, MT 59715-7773

Townes & Long Trust
PO Box 10304
Bozeman, MT 59719-0304

Christine C. Kroos
848 Stonegate Dr
Bozeman, MT 59715-2100

Reginald T. Handley
896 Stonegate Dr
Bozeman, MT 59715-2100

Michael E. and Debra L. Revocable Living
Trust
930 Stonegate Dr
Bozeman, MT 59715-2109

Gordon N. Haugen
Beverley Haugen
22 Barclay Dr
Bozeman, MT 59715

Michael S. Augustine Revocable Living
Trust
1020 Stonegate Dr
Bozeman, MT 59715-7774

James A. Devitt
~~1060 Stonegate Dr~~
~~Bozeman, MT 59715~~

John R. Odonnell
Mary J. Odonnell
1100 Stonegate Dr
Bozeman, MT 59715-7775

Stonegate Open Space Master
~~General Delivery~~
~~Bozeman, MT 59715~~
Returned Mail Received 7/18/2022

Thomas P. Hougan
PO Box 3445
Bozeman, MT 59772-3445

Knell Family Trust
419 Stonegate Dr
Bozeman, MT 59715-7772

Charles B. Lewis
3935 Graf St
Bozeman, MT 59715

~~James D. Rylander Jr~~
~~Roberta L. Rylander~~
~~8495 E Pepper Tree Ln~~
~~Scottsdale, AZ 85250-4914~~

Gary R. Ryti
Myrna K. Ryti
727 Stonegate Dr
Bozeman, MT 59715

Sophie H. Pirie
765 Stonegate Dr
Bozeman, MT 59715-7773

Note: Service List Updated 1-25-23

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H

Water Right Number: 41H 113303-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners:

FAIRWAY ESTATES
PO BOX 1941
BOZEMAN, MT 59771 1941

STEVEN H WILLIAMSON
PO BOX 1865
BOZEMAN, MT 59715

WAYNE NEIL JR
30 CHURN CREEK DR
BOZEMAN, MT 59715 7705

WAYNE NEIL SR
6039 GOOCH HILL RD
BOZEMAN, MT 59715

MICHAEL L EIDE
379 BRIAR PL
BELGRADE, MT 59714 7580

JEAN NEIL
30 CHURN CREEK DR
BOZEMAN, MT 59715 7705

HOLTON, SCOTT REVOCABLE TRUST
HOLTON, SCOTT TRUSTEE
1200 STONEGATE DR
BOZEMAN, MT 59715

HOLTON, JENNIE J REVOCABLE TRUST
HOLTON, JENNIE J TRUSTEE
1200 STONEGATE DR
BOZEMAN, MT 59715

Priority Date:

Type of Historical Right:

Purpose (use): IRRIGATION

Flow Rate:

Volume:

Source Name: EAST GALLATIN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
GALLATIN RIVER
BASIN 41H

Water Right Number: 41H 113304-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: DISMISSED

Owners:

FAIRWAY ESTATES
PO BOX 1941
BOZEMAN, MT 59771 1941

STEVEN H WILLIAMSON
PO BOX 1865
BOZEMAN, MT 59715

WAYNE NEIL JR
30 CHURN CREEK DR
BOZEMAN, MT 59715 7705

WAYNE NEIL SR
6039 GOOCH HILL RD
BOZEMAN, MT 59715

MICHAEL L EIDE
379 BRIAR PL
BELGRADE, MT 59714 7580

JEAN NEIL
30 CHURN CREEK DR
BOZEMAN, MT 59715 7705

HOLTON, SCOTT REVOCABLE TRUST
HOLTON, SCOTT TRUSTEE
1200 STONEGATE DR
BOZEMAN, MT 59715

HOLTON, JENNIE J REVOCABLE TRUST
HOLTON, JENNIE J TRUSTEE
1200 STONEGATE DR
BOZEMAN, MT 59715

JOHN E ZOWADA
3138 MADRONA LN
BOZEMAN, MT 59715 0705

TRISHA M ZOWADA
3138 MADRONA LN
BOZEMAN, MT 59715 0705

Priority Date:

Type of Historical Right:

Purpose (use): STOCK

Flow Rate:

Volume:

Source Name: UNNAMED TRIBUTARY OF EAST GALLATIN RIVER

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

Period of Use:

Place of Use:

Remarks:

THIS CLAIM WAS DISMISSED BY ORDER OF THE WATER COURT.